

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 14, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 14, 2023, at 1:00 p.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 536 23
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the Agenda as presented.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Minutes

The minutes from November 7, 2023, were approved by consensus.

**Corre-
spondence**

There was no correspondence.

There were no public comments.

**Public
Comments**

**2024 CC
Meeting
Schedule &
Holiday
Schedule**

Mr. Lawson presented the 2024 Council Meeting Schedule and Holiday Schedule for Council's consideration. Mr. Lawson noted that 2024 is an election year, therefore, the schedule will be adjusted accordingly to reflect Election Day, Primary Day, and Return Day. Mr. Lawson reported the days that the County Offices will be closed for 2024.

**M 537 23
Approve
2024**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it moved that the Sussex County Council approves the 2024 County Holiday Schedule and the 2024 Council Meeting Schedule as presented.

Motion Adopted: 5 Yeas

Schedule **Vote by Roll Call:** **Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

SCLT **Mr. Lawson reviewed a property management agreement with the Sussex
Managem-** **County Land Trust for Hopkins Preserve.**
ent

Agreement **Mr. Lawson reported that County Council approved the purchase of the
property known as Hopkins Preserve off Sweetbriar Road, west of Lewes
on January 11, 2022. The County paid one million five hundred thousand
dollars for over 40 acres of land. In May 2022, the purchase agreement
between the County and Mr. Walter Hopkins was ratified. In June 2022, the
property officially settled.**

**The purchase of Hopkins Preserve was a unique negotiated acquisition. Mr.
Hopkins agreed to the sell the property only if it were to be preserved and
developed into an amenity the public could access and enjoy. In
consideration for this arrangement, Mr. Hopkins sold the property for less
than its appraised value. Part of the agreement included SCLT develop the
property and ultimately manage the Preserve. In anticipation of the
development of the Preserve, the County has allocated \$981,000 to be used
for construction costs.**

**The purchase stipulated that a Deed of Conservation Easement be recorded
in favor of the SCLT for the purposes of developing and managing the
property. Additionally, the purchase stipulated that the County and SCLT
enter into a Property Management Agreement outlining the responsibilities
of each party.**

**The Agreement specifies SCLT's roles and responsibilities in managing
Hopkins Preserve. The agreement is for a period of twenty-five years with a
twenty-five-year extension. SCLT is responsible for the development,
solicitation of bids, and construction of the agreed upon improvements. The
County will reimburse SCLT for completed work in \$245,250 increments
up to \$981,000. Any additional funding requests will need to be approved in
a future County budget. SCLT will serve as the day-to-day manager and is
also responsible for the long-term maintenance of the facility.**

**Mr. Vincent asked what the SCLT would be spending for the project. Mr.
Mark Chura from SCLT came forward to provide information of what they
plan to provide financially towards the project.**

M 538 23 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it
Approve** **moved that Sussex County Council approves the property management
SCLT** **agreement and the terms therein with the Sussex County Land Trust for the
Managem-** **purposes of managing the property known as Hopkins Preserve.**
ent

Agreement **Motion Adopted: 5 Yeas**

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**Adminis-
trator's
Report**

Mr. Lawson read the following information in his Administrator's Report:

1. Delaware Animal Services Performance Report

The Delaware Animal Services Performance Report for the first, second and third quarters of 2023 are attached listing the total number of calls for service by location as well as a breakdown of the total types of calls in Sussex County. In total there were 5,181 calls for service in the first three quarters of 2023 for Sussex County.

2. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet November 20th at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. A copy of the meeting agenda is attached.

3. Council Meeting/Holiday Schedule

Council will not meet on Tuesday, November 21st, during the week of Thanksgiving. County offices will be closed on Thursday, November 23rd and Friday November 24th, for the Thanksgiving holiday and will reopen on Monday, November 27th, at 8:30 a.m.

Please also note that Council will not meet on Tuesday, November 28th. The next regularly scheduled Council meeting will be held on December 5th at 10:00 a.m.

4. County Holiday and Employee Appreciation Luncheon

The County's Holiday and Employee Appreciation Luncheon will take place on Friday, December 1, 2023, at the Crossroads Conference Center. County offices will close at 12:00 p.m. on December 1st and will reopen on Monday, December 4th, at 8:30 a.m. The public is asked to plan accordingly during this time, and we appreciate the public's understanding.

[Attachments to the Administrator's Report are not attached to the minutes.].

**FY24
Human
Service
Grants**

Mrs. Jennings presented the FY 2024 Human Service Grants for Council's consideration. Mrs. Jennings noted that there was \$225,000 included in the budget.

Mrs. Jennings introduced Sophia Chillelli, an Intern with Sussex County who provided a presentation on the formula used. Ms. Chillelli reviewed the Human Service Grant purpose and process of how the formula was created. This year, there was \$429,358 received in requests from 75 qualified organizations. There was a variety of types of beneficiaries with youth being the largest group at 25%. The list of recipients along with the recommended grant amount was provided in the Council's packets.

**M 539 23
Approve
FY24
Human
Service
Grants**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved that the Sussex County Council, approve the Fiscal Year 2024 Human Service Grant allocation as presented.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**EMS Public
Safety Bldg/
CO No. 26**

Thomas Van Dyke, Project Engineer I presented Change Order No. 26 for EMS Public Safety Building – Project C19-04 for Council's consideration. Mr. Van Dyke reviewed the items included in the change order.

**M 540 23
Approve CO
No. 26/EMS
Public
Safety Bldg.**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 26 for contract C-19-04, Sussex County Public Safety Building be approved for a decrease of \$6,000 with any held retainage released in accordance with the contract documents.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Aviation
Apron
Expansion/
CO No. 1 &
2**

Robert Bryant, Airport & Business Park Manager presented change orders 1 & 2 and substantial completion for General Aviation Apron Expansion, Phase IV, Project A20-36 for Council's consideration.

**M 541 23
Approve CO**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that the Sussex County Council approves acceptance for the construct general aviation apron expansion phase IV project, A20-36 and

**No. 1 &
2/Aviation
Apron
Expansion**

that change order no. 1 contract price is decreased by \$268.00 and change order no. 2 contract price is decreased by \$169,506.07 and declare that substantial completion is granted effective November 14, 2023 at a final contract construction cost of \$1,764,024.93.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Grant
Requests**

Mrs. Jennings presented grant requests for Council's consideration.

**M 542 23
New
Coverdale
Outreach
Mission, Inc.**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mrs. Green's Councilmanic Grant Account) to New Coverdale Outreach Mission, Inc. for operational expenses.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 543 23
Girl Scouts
of the
Chesapeake
Bay Council,
Inc.**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to give \$2,000 (\$500 from Mr. Vincent's Councilmanic Grant Account, \$500 from Mr. Schaeffer's Councilmanic Grant Account and \$1,000 from Mr. Rieley's Councilmanic Grant Account) to Girl Scouts of the Chesapeake Bay Council, Inc. for an educational trip to Savannah, GA.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Ord. Intros

There were no Ordinances for Introduction.

**CC Member
Comments**

There were no Council Member comments.

**M 544 23
Go Into
Executive
Session**

At 1:20 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess the Regular Session, and go into Executive Session for the purpose of discussing matters related to pending/potential litigation, collective bargaining, personnel & land acquisition.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Executive Session At 1:23 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to pending/potential litigation, collective bargaining, personnel & land acquisition. The Executive Session concluded at 1:40 p.m.

M 545 23 Reconvene At 1:43 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out into Executive Session back into Regular Session.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

E/S Action There was no action related to Executive Session matters.

**Public Hearing/
Ord. No. 23-09** A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 533-11.00-23.02” (property lying on the northeast side of Zion Church Road [Rt. 20], approximately 275 feet northwest of Deer Run Road [S.C.R. 388]) (911 Address: N/A) (Tax Map Parcel: 533-11.00-23.02) (Zoning: AR-1 [Agricultural Residential])

Jamie Whitehouse, Planning and Zoning Director presented the Proposed Ordinance. Mr. Whitehouse noted that the request is to change the designated of the sewer tier from a Tier 4 to Tier 2.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended the adoption of the Ordinance for the reasons as outlined within the motion.

Following the Commission’s recommendation to adopt the Ordinance, the Ordinance has been submitted to the State of Delaware’s Preliminary Land Use Review process. The item is scheduled to be heard at the PLUS meeting on November 15, 2023. Following receipt of written PLUS comments from the State of Delaware, these will be reported to the County Council.

Public comments were heard.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Ordinance Application. Mr. Hutt stated that the change in the sewer tier is consistent with the Sussex County Comprehensive Plan and the Future Land Use Map categories; that with Chapter 4 it states, that central sewer facilities are strongly encouraged within the Future Land Use Map designation of the Coastal Area; that the entire site is located within the Coastal Area; that across the street from the

property is not the same purple shade that is shown on the screen.

The Public Hearing was closed.

M 546 23
Leave
Record
Open/Ord.
No. 23-09

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to leave the record open for 30 days after receiving the PLUS recommendation.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Rules

Mr. Moore read the rules and procedures for public hearings.

Public
Hearing/
CU2389 &
CU2392

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY INCLUDING RV/BOAT STORAGE, THE STORAGE OF COMMERCIAL VEHICLES, AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.95 ACRES, MORE OR LESS” (property lying on the northeast side of Zion Church Road [Rt. 20], approximately 275 feet northwest of Deer Run Road [S.C.R. 388]) (911 Address: N/A) (Tax Map Parcel: 533-11.00-23.02) filed on behalf of AWH Properties, LLC

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 14 recommended conditions as outlined.

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE BUILDINGS, A CAR WASH, & CLUBHOUSE WITH SWIMMING POOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31.83 ACRES, MORE OR LESS” (properties lying on the southwest side of Zion Church Road [Route 20], approximately 605 feet northwest of Deer Run Road [S.C.R. 388], and the north side of Deer Run Road [S.C.R. 388], approximately 159 feet southwest of Zion Church Road [Route 20]) (911 Address: 36054 Zion Church Road, Frankford) (Tax Map Parcel: 533-11.00-23.00, 23.03 & 23.04) filed on behalf of Zion Church Ventures, LLC

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application

**Public
Hearing/
CU2389 &
CU2392
(continued)**

for the 8 reasons stated and subject to the 19 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the applications.

The Council found that Mr. David Hutt, Esq. with Morris James, LLP spoke on behalf of the owners and Applicants for C/U 2389 AWH Properties, LLC, and C/U 2392 Zion Church Ventures, LLC; that also present were Mr. Matt Williams and Mr. Brad Absher, Principals of both AWH Properties, LLC and Zion Church Ventures, LLC, and Mr. Jamie Sechler, P.E. with Davis Bowen & Friedel, Inc.

Mr. Hutt stated that the properties are located directly across from each other along Zion Church Rd.; that the property's ownership groups are the same, despite the different names of the entities; that the properties are located along Zion Church Rd. (Rt. 20), being a short distance north from Deer Run Rd; that C/U 2392 Zion Church Ventures, LLC would be the western project, and C/U 2389 AWH Properties, LLC would be the eastern project; that the Application for C/U 2389 AWH Properties, LLC is for RV, boat and self-storage, which is a permitted Conditional Use within the AR-1 (Agricultural Residential) District; that the proposed use for the western side, is a new form of self-storage; that this form of self-storage is a bit more elaborate, being where a person can buy an individual self-storage unit, that would be located within the proposed project area; that these projects are often referred to as a "Hobby Condo" or "Man or She Caves"; that within the surrounding area for both properties are Your Space Self Storage, European Coach Werkes, Inc. and the recently approved GR-RPC known as Twin Cedars; that both properties are located within Investment Level 3, which is where the State anticipates growth in the near and long term future; that there is a portion of the western parcel, for C/U 2392 Zion Church Ventures, LLC, which is located within Investment Level 4, where the State does not anticipate growth; that the surrounding areas are generally located within Investment Levels 2 and 3; that in areas located within Investment Level 4 are areas where the State believes there may be wetlands; that neither of the Applications will involve public funds for their proposed uses; that these Applications will provide a service for the existing residents in the area to store their belongings; that according to the 2045 Future Land Use Map found in Sussex County's Comprehensive Plan both properties are located within the Coastal Area, which is a Growth Area; that properties located to the west of the sites are located within the Developing Area, which is also a Growth Area; that the permitted uses within the Coastal Area and the Developing Area are very similar; that mixed-use development is encouraged in those areas, to help provide convenient services that allow people to work close to home; that the Applications propose a mixed use for the area, to provide a service for individuals who live in communities or cluster subdivisions where they are not permitted to have an RV, boat or multiple vehicles; that these Applications will provide people a location to be able to do so; that he felt,

**Public
Hearing/
CU2389 &
CU2392
(continued)**

this makes the proposed uses very consistent with the Comprehensive Plan; that both properties are located with the AR-1 (Agricultural Residential) Zoning District; that there are a variety of zoning classifications along Zion Church Rd. consisting of C-1 (General Commercial), B-1 (Neighborhood Business), CR-1 (Commercial Residential), GR (General Residential) and HR-1 (High Density Residential); that Mr. Hutt shared a visualization of all the subdivisions located within a five mile radius of the properties, which reflected a large number of existing subdivisions within the surrounding area of the sites; that the surrounding area is a highly residential area of Sussex County, making the proposed uses a need for the area; that the objective for both Application's is to provide a location in the proximity to all the various subdivisions for those uses; that on the eastern side, for C/U 2389 AWH Properties, LLC, the primary use is for boat and RV storage, which would be stored outside; that on the western side, for C/U 2392 Zion Church Ventures, LLC, the proposed units would provide indoor, climate controlled storage space, where work could be performed, or vehicles could be washed; that the style of the two self-storage units is the biggest difference between the two Applications; that neither property is located within a flood plain, as they are both located within the Flood Zone X area; that Artesian Water Company holds the CPCN for both properties; that they have acquired a Willing & Able letter for C/U 2389 AWH Properties, LLC, however, they had not yet received the Willing & Able letter for C/U 2392 Zion Church Ventures, LLC; that both properties were right on the edge of the Sewer Tier Map; that in June 2023, through Ordinance No. 2931, the western property was brought into the Sewer Tier 2; that Ord 23-09 proposes to do the same on the eastern property; that there are no rare, threatened or endangered species likely to be located on either property; that there was a report from Watershed Eco submitted into both exhibit books; that there are no known archaeological sites or national registered, listed or eligible properties located on either site and there are no Wellhead Protection Areas or Excellent Water Recharge areas on either site.

Mr. Hutt stated that C/U 2389 AWH Properties, LLC, being the eastern property, was the subject site of the previously heard application for Ordinance No. 23-09; that this location is for the proposed use of boat and RV storage; that there would be a 2,500 sq. ft. self-storage building located to the northern end of the property; that there would be a 576 sq. ft. office located just in front of the self-storage building; that the entrance would be located off Zion Church Rd., which will align with the entrance to the western property; that there would be a fence and it would be gated access; that there would be one unlit sign proposed to be placed along Zion Church Rd., not to exceed 32 sq. ft.; that any security lighting would be downward screened, as to not shine onto Zion Church Rd. or onto neighboring properties; that the site was evaluated by Watershed Eco for the presence of wetlands; that a report, as well as, a Preliminary Jurisdictional Determination have been included within the project materials; that there was a recent Supreme Court decision, which reclassified wetlands and the definition of wetlands nationally; that there are two ditches that run along the boundaries of the property with a 50 ft. tax ditch right of way; that they

**Public
Hearing/
CU2389 &
CU2392
(continued)**

had discussions with Mr. James McCulley and Mr. William Twupack, with Watershed Eco, who indicated the wetlands located to the rear of the property, may continue to be classified as wetlands as they have intermittent connections to the tax ditches; that there is a 25 ft. buffer proposed from the wetlands; that per the DelDOT Service Level Evaluation Response, there would be a diminutive impact on traffic, which is the lowest impact a project could have, with less than 50 vehicle trips per day for the proposed use; that they have proposed a condition that no washing, cleaning or maintenance are permitted on the site; that he requested some changes to the proposed conditions recommended by the PZ Commission; that the proposed changes are under condition 9; that the first is to make it clear that it is not just boats and RVs that could be stored here; that there are other types of vehicles that could potentially be stored here; that the proposed language added was to state under 9 A. "The use shall be limited to the outside storage (covered or uncovered) of vehicles, trailers, motorcycles, boats, and RV's, a 2,500-square-foot building for self-storage, and a 576-square-foot building. No other outside storage of vehicles or equipment shall occur on the site"; that the same changes occur under D, K and M related to expand it to capture all of the potential types of vehicular uses; that under Condition 9 B, that the recommended condition was for it to only be accessible until dusk; that it is being proposed to read "Other than picking up or dropping off a vehicle, trailer boat or RV. The facility shall only be accessible from 6:00 a.m. until 10:00 p.m. and access to the site shall be locked to limit access accordingly"; that there is a minor change in C requested; that the perimeter of the storage and buildings will be fenced rather than the site; that the concern is that there would not be a need for a fence to run the perimeter of the entire property; that the only areas that would need fencing would be the areas where the storage is occurring.

Mr. Hutt stated that C/U 2392 Zion Church Ventures, LLC, being the western property, is a proposed 180,500 sq. ft. of warehouse or storage buildings; that in addition to the proposed climate-controlled buildings, there is a proposed 2,500 sq. ft. building for a car wash, with a potential additional amenity of a clubhouse, pool and patio area, to be located just off Zion Church Rd.; that the additional amenities are optional; that the individual units are anticipated to be much like a "Man Cave"; that a person would purchase a unit; that the person would then have, through that purchase, access to the car wash and amenities; that the frequent users of these types of units are people with hobbies, who desire to have their hobbies located within a climate controlled environment; that these are typically people who wish to store motorcycles, sports cars, classic cars, RVs, boats and other hobby type items; that many people who have these types of hobbies, also enjoy tinkering with those hobby items; that this proposed use will allow people to do that; that these units would allow people to work on their hobby items, and be around others who may share the same hobby interests; that this is the reasoning for the potential clubhouse, to allow for people a place to meet to discuss their similar hobbies; that the car wash amenity would not be an optional amenity and is absolutely proposed; that the car wash area would be an area for those who

**Public
Hearing/
CU2389 &
CU2392
(continued)**

are a part of the condominium association to wash their vehicles; that to allow people the ability to work on their vehicles, there would be an oil recycling facility located on the site; that all work would be performed indoors; that there would be a RV sewer cleanout; that the entrance would be located off Zion Church Rd.; that Mr. Jamie Sechler did participate in a pre-submittal meeting with DeIDOT for both properties; that there would be a fence around the entirety of the property, with a gated entrance; that the site was evaluated by Watershed Eco for the presence of wetlands; that a report, as well as, a Preliminary Jurisdictional Determination have been included within the project materials; that the wetland areas on the site do not have any connections, and are likely no longer regulated or jurisdictional wetlands; that this is still a determination which needs to be made; that in the case those areas are considered wetlands, a 25 ft. buffer is proposed from those areas; that in addition, there are two locations where there would be an impact to the wetlands; that per consultation with Watershed Eco, they indicated that a nationwide permit to fill the two locations, because they are less than .5 acre, would be readily available; that according to the DeIDOT Service Level Evaluation Response, the proposed use would have a negligible impact on traffic, indicating that the anticipated traffic would be less than 50 vehicles per hour and less than 500 vehicle trips per day; that a picture of the proposed buildings were shown; that both applications went through a public hearing before the Planning Commission; that both are uses that would typically be found in the Conditional Use section of the Code; that there were some amendments requested from the Planning Commission's recommended conditions that were distributed; that under 9A, it is requested to the word "optional" be added before pool and clubhouse amenity; that those things may exist as the site progresses; that under 9A, the next sentence was modified to read "The amenities (car wash area), oil recycling and disposal facility, RV sewer clean and optional (pool and clubhouse) shall be for the exclusive use of the owners and their families and guests;"; that this clarifies that it is for all of the amenities; that in recommended condition 9D, it is proposed to strike climate controlled; that recommended condition N was proposed to be taken out completely; that the Planning Commission had recommended that there be an onsite management office managing the property and the operation of it; that it states that it should be open during regular business hours; that this would impose a significant financial hardship on this project; that many self-storage projects of this size do not have an onsite manager all of the time; that there can be an area on the site that functions as an office; that most people would be there on a weekend or an evening; that under recommended condition O, it states "The units shall only have bathrooms with a sink and toilet. No showers, bathtub type fixtures or plumbing connections shall be permitted. Instead, any shower/bathing facilities shall be in standalone, centrally located buildings located on the site."; that it is being proposed to eliminate the proposed condition.

Mr. Vincent asked where it stated in the record that there would be bathrooms in the building. Mr. Hutt replied that it doesn't expressly say that. Mr. Vincent questioned where people would go to the bathroom. Mr.

**Public
Hearing/
CU2389 &
CU2392
(continued)**

Hutt stated that they would have a toilet and a sink. Mr. Hutt added that this was a limited condition that was proposed by the Planning Commission. So, another way to approach that would be to state that the units may have bathrooms. Mr. Hudson stated that it would need to be determined prior to the building being built if the units would have bathrooms.

Mr. Hudson questioned the office hours.

There were no public comments for either of the two applications.

The Public Hearing was closed for CU2389.

**M 547 23
Defer
Action/
CU2389**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY INCLUDING RV/BOAT STORAGE, THE STORAGE OF COMMERCIAL VEHICLES, AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.95 ACRES, MORE OR LESS” and the public record was left open until 30 days after receiving the PLUS recommendation.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

The Public Hearing and public record were closed for CU2392.

**M 548 23
Defer
Action/
CU2392**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE BUILDINGS, A CAR WASH, & CLUBHOUSE WITH SWIMMING POOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31.83 ACRES, MORE OR LESS”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2448**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM

**Public
Hearing/
CU2448
(continued)**

TO BE LOCATED ON A 35 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 75.62 ACRES, MORE OR LESS” (property lying on the northeast side of Seashore Highway [Rt. 18 and S.C.R. 404], approximately 0.67 mile southeast of Sussex Highway [Rt. 13]) (911 Address: N/A) (Tax Map Parcel: 131-15.00-34.00 [p/o]) filed on behalf of TPE DE SU75, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons and subject to the 8 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, Inc., spoke on behalf of the Applicant and that also present was Mr. Jordan Belknap, with Turning Point Energy. Mr. Falkowski stated the project is on the Delmarva Power grid; that the property is in Bridgeville, bound between Rifle Range Rd. and Rt. 404; that the solar array area is to the north; that the proposed Conditional Use area will be comprised of 35 acres; that the solar array is in complete compliance with Ordinance No. 2920; that there is a 25-foot wide landscape buffer; that it fully encompass the perimeter of the solar array; that there will be a 7-foot fence; that there will be a Knox box with emergency access; that there is an existing farm lane off of Route 404 that will be utilized; that a wetland delineation was completed; that there are wetlands in a ditch; that there is a FEMA floodplain area zoned AE; that all of the applicable buffers are met; that that the site is located within the AR-1 (Agricultural Residential) Zoning District, and is mostly used for agricultural purposes, and the proposed use is for a community solar facility, made up of four megawatt ground-mounted tracking system; that the applicant agrees to the conditions placed by the Planning Commission; that they are aware of a tax increase.

Public comments were heard.

Mrs. Pam Tull spoke in favor of the application; that they are here today for her grandfather and his family’s work ethic; that they loved to farm; that her and her husband have been given a gift; that she is here today to represent her family; that they want to be good stewards of what have been given to her and her husband; that they have taken time to research this; that they have a perfect plot for a solar array; that everyone will benefit from this; that this honors her families legacy.

The Public Hearing and public record were closed.

**M 549 23
Adopt**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 2960 entitled “AN ORDINANCE TO GRANT A

**Ordinance
No. 2960/
CU2448**

CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 35 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 75.62 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Commission as follows:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 35 acres of a larger 75.62-acre tract.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.**
- 4. This Application complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.**
- 5. The solar array is located in an area that primarily consists of tilled agricultural land. With the conditions imposed by the operation of Ordinance No. 2920 including separation distances and buffering, the proposed use will not have any adverse impact on the surrounding property.**
- 6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 7. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.**
- 8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 9. There was no opposition to this Application.**
- 10. This recommendation is subject to the following conditions set forth in Ordinance No.2920 and the following additional conditions:**
 - a. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.**
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
 - c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - d. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and**

**M 549 23
Adopt
Ordinance
No. 2960/
CU2448
(continued)**

- shall provide contact information in case of emergency.
- e. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - f. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - g. The Final Site Plan shall include a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - h. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2470**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 64.59 ACRES, MORE OR LESS” (property lying on the east side of Savannah Road [S.C.R. 246], approximately 0.85 mile south of Rudd Road [S.C.R. 245]) (911 Address: N/A) (Tax Map Parcel: 135-15.00-8.00) filed on behalf of CI Solar DP, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons and subject to the 10 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. David Hutt, Esq., with Morris James, LLP spoke on behalf of the Applicant; that also present were Mr. Walter Serafyn with CI Renewables, LLC and Mr. Mark Davidson, Principal Land Planner with Pennoni. Mr. Hutt stated the influx of solar applications was due to the bill signed by Governor Carney in 2021, which increased the standard for Delaware’s portfolio of how much renewable energy the State must have by 2035; that this past April, in Ordinance No. 2920, County Council adopted some standardized special conditions for the Conditional Use of a Solar Array in Sussex County; that the subject Application proposes and 18 megawatt facility to be located on approximately 64 acres, to help create a clean, renewable supply of electricity; that the Application is a combination of a

**Public
Hearing/
CU2470
(continued)**

community solar facility, as well as a net-metering facility; that the customer of the net-metering facility will be the nearby Georgetown Perdue Processing Plant; that the site consists of 64.5 acres, along the eastern side of Savannah Rd.; that the property is located within the AR-1 (Agricultural Residential) Zoning District; that the site is located adjacent to the municipality of the Georgetown; that there are GR (General Residential) zoned properties located to the north and west of the site; that to the west of the site there is an Industrial zoned property; that along Rt. 113 and Rt. 9 there are commercially zoned properties; that according to the Future Land Use Map, the site is located within a Developing Area; that within the municipality of Georgetown, adjacent to the site is the Perdue plant, which is located within the Town's LI-2 (Limited Industrial) Zoning District; that other Town of Georgetown zoning within the surrounding area are UR-1 (Urban Residential) and URC-RPC (Neighborhood Residential-Residential Planned Community); that Mr. Hutt presented to the Council time lapse aerial photos from 1937 to 2022, which reflected that the site was farmed and wooded as far back as 1937; that the photos also reflect wet areas located on the property, which seemed to have always present a challenge for farming; that the surrounding location of the site has become developed and is no longer a farming area; that to the east of the site, is the location of the Sandhill Sports Complex; that to the east of the sports complex is the location of the Cheer Center; that to the north and west of the property are wooded areas; that south of the site there are a few residential homes; that the site is located with Investment Levels 1 & 2, according to the State Strategies Map, being levels where the State anticipates growth within the near and long term future; that the solar facility will not require public funding, therefore will not burden the public with extra assistance from the schools, police, and emergency responders; that the project does not require public utilities such as water and sewer; that the site is located within Flood Zone A, which indicates that the site is located within the 100 Year Floodplain; that the floodplain will not impact the proposed solar facility use; that there are no jurisdictional or regulated wetlands located on the site; that there are a few low-lying areas located on the site; that these low-lying areas do not qualify as jurisdictional or regulated wetlands; that there is no traffic associated with the proposed use; that DelDOT stated the traffic impact would be diminutive; that the site will require very minimal grading, as it is already a flat site, being ideal for the installation of solar arrays; that the solar arrays would be installed to withstand hurricane force winds; that the solar arrays are ground-mounted tracking systems, which move throughout the day to capture the most amount of sun; that inverters would be located to the center of the site, being away from adjacent properties; that the operational life of these systems begin at 20 years; that the Applicant, CI Renewables, LLC is a private, non-utility affiliated developer and are the owner and operator of the commercial and industrial solar facilities; that they are the contract purchaser of the property; that as the operator of the site, they would be fully responsible for constructing, ensuring and decommissioning the system at the end of the solar arrays life span; that the three concerns most often heard in relation to solar projects are sound, visual appearance and the impact to adjacent properties; that the sound generated from the project is minimal, being equal to a small

**Public
Hearing/
CU2470
(continued)**

appliance or an HVAC system; that a data sheet was included in the Exhibit Booklet which address the sound proposed to be generated by the project; that any sound would be generated during the daytime; that the inverters are centrally located away from any populated areas; that a Glare Study was included within the Exhibit Booklet; that solar panels are intended to absorb sunlight, not to reflect sunlight, therefore there will be no negative impact from glare; that the Application is subject to the recently adopted solar Ordinance, and the project does comply with the requirements of the Ordinance; that there would be a 100 ft. space between the roadway and the solar arrays; that a 50 ft. distance is provided between the arrays and adjacent properties; that where there is existing vegetation, it would be utilized as part of the buffer, and would be filled in as need to comply with the Code requirements; that a pollinator mix would be placed in the location of the solar arrays; that there will be little visual impact to anyone along Savannah Rd.; that the surrounding area is not a highly residential area; that there are a few homes along Savannah Rd.; that there will be a fence surrounding the entire perimeter with a Knox box for emergency responders; that there are two parts to the proposed project; that to the left of the site will be the location of the community energy facility portion, which will allow individuals to subscribe to obtain credits to their electric bill; that the right side of the site will be the location for the net metered facility, which would be connected to the Georgetown Perdue Processing Plant; that it is estimated that this would supply approximately 35% of the electric for the Perdue Georgetown facility; that the proposed use is an appropriate Conditional Use, as they are public or semi-public use utilities; that Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar arrays and that as required, the solar arrays will the special requirements; that the Application was considered by the Planning Commission; that it was recommended for approval with conditions; that the Applicant has no changes or requests to those conditions at this time.

There were no public comments.

The Public Hearing and public hearing were closed.

**M 550 23
Adopt
Ordinance
No. 2961/
CU2470**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2961 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 64.59 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning and Zoning Commission as follows:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more

**M 550 23
Adopt
Ordinance
No. 2961/
CU2470
(continued)**

- intensive development. The solar array will be located on approximately 64.59 acres.
3. The proposed use will be an 18-megawatt facility that will be a facility combining a Community Energy facility and a Net Metered Facility. The anticipated customer for the Net Metered Facility is the adjacent Perdue poultry plant.
 4. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.
 5. The proposed solar array is located adjacent to the Town of Georgetown and the land is designated as being within the “Developing Area” according to Sussex County’s Future Land Use Map.
 6. This Application generally complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.
 7. The solar array is located in an area that primarily consists of tilled agricultural land. With the conditions imposed by the operation of Ordinance No. 2920 including separation distances and buffering, the proposed use will not have any adverse impact on the surrounding property.
 8. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels. DelDOT has determined that the proposed conditional use would have a “Diminutive” impact on traffic.
 9. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
 10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
 11. There was no opposition to this Application.
 12. This recommendation is subject to the following conditions set forth in Ordinance No. 2920 and the following additional conditions:
 - a. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - c. All required fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan.
 - d. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - e. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.

**M 550 23
Adopt
Ordinance
No. 2961/
CU2470
(continued)**

- f. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.**
- g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
- h. There shall be a 25-foot-wide buffer of planted vegetation along the northern, eastern, and southern sides of the solar facility which shall use existing vegetated areas and supplement it as necessary with native plantings. There shall be a 25-foot-wide buffer created using native species along the eastern boundary of the property (Savannah Road). These buffer areas shall be clearly shown on the Final Site Plan. These buffers shall screen solar arrays while allowing them to function properly. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in these buffer areas.**
- i. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2452**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED AND BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.99 ACRES, MORE OR LESS” (property lying on the southwest side of Armory Road [S.C.R. 382], and the north side of Omar Road [Rt. 54], at the intersection of Armory Road [S.C.R. 382] and Omar Road [Rt. 54]) (911 Address: 30897 Omar Road, Frankford) (Tax Map Parcel: 533-2.00-8.00) filed on behalf of Community Lutheran Church.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 6 reasons as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

**Public
Hearing/
CU2452
(continued)**

The Council found that Mr. Ed Evans, Vice President of the Church Council for Community Lutheran Church, spoke on behalf of the Application; that also present was Mr. Lynn Rogers, President of Rogers Sign Co., Inc.; that Mr. Evans stated their church is best known as being the church located at the blinking light of Armory Rd. and Omar Rd.; that the Application is requesting an upgrade to an already existing sign; that they are requesting to upgrade from clay tablets to new LED technology; that the current sign has existed for over two decades; that they do not wish to relocate the sign or change the size of the sign; that they are requesting to utilize the existing sign housing, upgrade the 36"x72" portion of the sign to an LED sign which will be mounted in the existing sign frame; that the existing sign frame is 36"x121"; that the current "Community Lutheran Church" portion of the sign will remain as is.

Public comments were heard.

Ms. Doris Pierce spoke in favor of the application; that she had been looking for a spiritual church; that she visited a number of churches over the past year; that she felt welcomed and was accepted by this church; that they have a new female Pastor; that the goal is to grow the church; that the signs needs to be visual and get their message out there.

The Public Hearing and public record were closed.

**M 551 23
Adopt
Ordinance
No. 2962/
CU2452**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2962 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED AND BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.99 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning and Zoning Commission as follows:

1. The Electronic Message Center, or EMC will be located on the Church property and will be utilized for advertising church activities.
2. The EMC will be located within the frame of an existing sign that has been in existence for over two decades. This is just an upgrade of that existing sign. The existing signboard of the sign that has lettering changed manually will be replaced by a new EMC.
3. The proposed sign will not have any adverse impact on neighboring properties or communities.
4. The EMC will comply with the requirements of Article XXI of the Sussex County Zoning Code regarding its operating and lighting requirements.
5. No parties appeared in opposition to this Application.
6. No conditions are necessary since the sign is regulated by Article XXI of the Sussex County Zoning Code.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CZ1984 &
CU2368**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS” (properties lying on the north side of Lighthouse Road [Route 54], and the west side of Bennett Avenue, approximately 350 feet west of Madison Avenue) (911 Address: N/A) (Tax Map Parcels: 533-20.00-22.00 & 20.00 [p/o]) filed on behalf of Carl M. Freeman Companies.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion.

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (23 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS” (properties lying on the north side of Lighthouse Road [Route 54], and the west side of Bennett Avenue, approximately 200 feet west of Deer Run Road [S.C.R. 388]) (911 Address: N/A) (Tax Map Parcels: 533-20.00-22.00 & 20.00 [p/o]) filed on behalf of Carl M. Freeman Companies.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons and subject to the 13 recommended conditions as outlined within the motion.

Jamie Whitehouse, Planning & Zoning Director presented the applications.

The Council found Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., was present to represent the Applicant, Carl M. Freeman Companies; that also present was Mr. Josh Mastrangelo, the Sr. Vice President of Freeman Companies, Ms. Katja Kalinski and Mr. Steve Marsh with George, Miles & Buhr, LLC, and Mr. Edward Launay with Environmental Resources, Inc. Mr. Fuqua stated there was an exhibit booklet submitted

**Public
Hearing/
CZ1984 &
CU2368
(continued)**

for the record; that there are two land use applications before the Council for the site; that one application is a Change of Zone requesting a zoning change from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that the second application is a Conditional Use request for 23 townhouse units; that the development is proposed to be called Channel Pointe Villas; that he will be addressing both applications within his one presentation. Mr. Fuqua stated that both Applications involve a 9.2-acre parcel, located on the north side of Rt. 54; that the site is adjacent to Bennett Ave., being located one mile west of Rt. 1 and Rt. 54 intersection; that the 9.2-acre parcel was involved with a 128 acre parcel, which was purchased by the Freeman Companies in March 2022; that the company previously had a contract to purchase the property; that in 2018 had applied for 70 single-family lot, cluster subdivision to be located on the majority of the site, which consisted of uplands and wetlands; that the previous application was designated as Subdivision 2018-18; that Preliminary Subdivision approval was granted in November 2018, with Final Subdivision approval being granted in February 2022; that the subject 9.2-acre property was not part of the previous 70 lot subdivision application; that in 2020, Freeman Companies applied for a Conditional Use for the 9.2 acre parcel for a 70 room hotel and a 8,500 sq. ft. restaurant; that the Planning & Zoning Commission held a public hearing in June 2021, and took action in July 2021; that only four Commissioners participated in the decision; that a motion was made to recommend denial of the application, which resulted in a two in-favor and a two-against vote; that due to this, the recommendation to deny failed, and no motion was made to recommend approval at that time; that the attorney representing the Planning & Zoning Commission for that hearing, indicated that the Application would proceed to County Council without a recommendation; that County Council held the application hearing in July 2021; that County Council action was taken in October 2021, which also resulted in a two in-favor and a two-against vote; that three votes are required for the approval of an application, and therefore the application was denied; that he believed the Commission and Council voted to deny based on the reasons that a hotel and restaurant are not a residential project, but more of a commercial enterprise in a predominantly residential area, the proposed use was too intense, being out of character, and therefore not compatible with the existing residential uses that largely surrounded the property; that the Applicant disagrees with those opinions; that based on the previously made comments, the Applicant proposes the two subject Applications, which do not propose an intense commercial use, but a residential use which is in character and compatible with the residential uses that already exist in the area; that the applications filed today do not propose a commercial use that is in character with and similar to the uses in the area that are there today; that located to the south of the property, on the other side of Rt. 54, is the location of Edgewater Acres and Cape Windsor developments, which are composed of single-family lots, where the majority of the lots are located along man-made canals; that to the west of Cape Windsor is the Veranda Bay community, which is zoned MR (Medium-Density Residential), and was approved as Conditional Use, C/U 1523, in 2004 for 12 multi-family units;

**Public
Hearing/
CZ1984 &
CU2368
(continued)**

that Veranda Bay as a density of 4.8 units to the acre; that located on the west side of the site is a broad expansive open tidal and non-tidal wetlands, which stretches over .5 mile westward to the next development property, Treasure Beach RV Park & Campground; that located north and to the rear of the site is the location of the Channel Pointe subdivision; that located to the east of the site is a mixture of zoning and uses; that there are a couple single-family homes fronting onto Bennett Ave, on lots zoned as AR-1; that the northern portion of the remaining adjacent land is zoned M (Marine), which is currently developed with a marina and boat slips, the Catch 54 Fish House restaurant, and the multi-family townhouse development, Fenwick Landing; that Fenwick Landing is 26 townhomes, located on 1.49 acres of land, equaling a density of 17.4 units per acre; that the remaining portion of adjacent land, fronting along Rt. 54 and Bennett Ave., is zoned B-1 (Neighborhood Business) and is the location of an existing spa facility, the Papa Grande restaurant, and a large parking lot; that the Application site will be served central water by Artesian Water Company, who hold the CPCN for the site; that the site is located within Sussex County's West Fenwick Sanitary Sewer District; that Sussex County Engineering Department confirmed that there is adequate sewer capacity available for the development; that stormwater management facilities will be designed and constructed in compliance with DNREC regulations, and will be reviewed and approved by Sussex Conservation District; that the entire 128 acre property, including the 9.2 acre parcel, had a Wetland Delineation performed by Mr. Edward Launay of Environmental Resources, Inc.; that the delineation was reviewed by the U.S. Army Corp of Engineers, who issued a Jurisdictional Determination Letter; that the delineation found that the 9.2 acre site contained 3.88 acres of tidal wetlands and 0.42 acres of non-tidal wetlands; that all of the wetlands are located along the western side of the parcel; that the site design provides a minimum 50 ft. buffer from the tidal wetland line to the lot lines; that the tidal wetland buffer average is 72 ft., with a minimum of 50 ft.; that additionally there is a voluntary 20 ft. minimum buffer from the non-tidal wetland line, with an average width of 36 ft; that the applications were filed before the recent Resource Buffer Ordinance was adopted; that contrary to allegations made by some of the submitted public comment letters, no wetlands will be disturbed, filled, or encroached upon; that Environmental Resources, Inc. also confirmed with the U.S. Fish & Wildlife Service that there were no federally listed, threatened or endangered species or critical habitats found on the site; that per the FEMA Flood Zone Maps, the majority of the site, which is proposed to be developed, is located within Flood Zone X, being located outside of the 100 Year Floodplain; that historically, the site was used as an area to store fill when Rt. 54 was being rebuilt, which led to the site being at a higher grade than much of the surrounding area; that the western portion of the site being developed, being the area located adjacent to the wetlands, is located within Flood Zone AE; that any development within the Flood Zone AE area will comply with the construction elevations and other FEMA requirements, which are also requirements of the Sussex County Building Code; that DelDOT indicated that in accordance with DelDOT's Development Coordination

**Public
Hearing/
CZ1984 &
CU2368
(continued)**

Manual, the trips generated by a 23 townhouse development did not warrant a Traffic Impact Study (TIS); that DelDOT further indicated that they had already reviewed and commented on a Traffic Operational Analysis (TOA), which Freeman Companies had completed through their engineering consultant, Century Engineering, Inc.; that the TOA was completed in relation to the 70 lot subdivision and the originally proposed hotel and restaurant, which was much more intensive in terms of traffic impacts; that the improvements recommended by the TOA, are the improvements which will be required by the Applicant for the subject Applications and the 70 lot subdivision, despite the significantly lessened impact of the proposed Applications; that the required improvement will include the realignment of Bennett Ave. to intersection with Rt. 54 on a right angle, and is located directly opposite Monroe Ave. on the south side of Rt. 54; that this improvement will create a more standard four-legged intersection; that the location of the realigned road will be constructed on land that is owned by the Applicant; that the Applicant will be dedicating that area to DelDOT; that the new intersection will have turn lanes and pedestrian, bike and transit improvements as recommended by DelDOT; that it will include a 10 ft. wide shared-use path along the Rt. 54 road frontage; that it will provide a pad site for a DART bus stop along Rt. 54; that as recommended by DelDOT's 2021 SR54 Corridor Study, the Applicant will be responsible for the installation of a traffic signal at the realigned Rt. 54, Bennett Ave, and Monroe Ave. intersection; that the development will have access from Bennett Ave. at a new traffic circle on Bennett Ave. at Madison Ave., and will also be the entrance to the approved subdivision; that there will be an interior drive, which will terminate at a cul-de-sac; that the 23 townhouse units will be located within four buildings; that the buildings will front along the internal drive, which will have sidewalks along both sides; that the 23 units proposed for the site is a density permitted by the MR Zoning District; that the density was determined by deducting the 3.8 acres of tidal wetlands from the 9.2 acre parcel size, which resulted in a net developable area of 5.32 acres, which supports the proposed 23 townhomes units; that the townhouse lots will be individually owned; that the townhomes will have sprinkler systems; that they will have three parking spaces for each unit, comprised of a one vehicle garage and two parking spaces in the driveway; that there will also be seven additional guest parking spaces located adjacent to a recreational amenity; that recreational amenities will consist of an outdoor swimming pool, a deck area, a bathhouse, and the central mailbox area; that they propose the recreational amenity area would be required to be completed by the issuance of 18th Certificate of Occupancy, equaling to the completion of the third building; that the stormwater management ponds are located along Bennett Ave. near the entrance and the development entrance along Rt. 54; that the development will be attractively landscaped with trees and other plantings along Bennett Ave., Rt. 54, along the northern boundary of the site, located adjacent to the subdivision and internally; that a detailed landscaping plan will be submitted as part of the Final Site Plan review; that not wetlands will be impacted by the site design; that to the western portion of the site there will be a minimum 50 ft. buffer from the tidal

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wetland and a minimum 20 ft. buffer from the non-tidal wetlands; that the townhouse lots and road right-of-way occupy approximately 2.34 acres of the site, resulting in 7.04 acres for the remainder of the site; that the remainder of the site will be open space comprised of the recreational amenity area, stormwater management areas, common areas, and wetlands; that there will be a Homeowners Association formed that will manage and maintain the common areas of the community; that the purpose of the MR Zoning District is to provide Medium-Density Residential development in areas which are expected to be urban in character and where public central sewer and water are available; that townhouses are an authorized Conditional Use within the MR District; that under the 2019 Comprehensive Land Use Plan, the Future Land Use Map designates the 9.2 acre parcel as being located within the Coastal Area, which is considered a Growth Area within the Comprehensive Plan; that the Plan states that it seeks to encourage the County's most concentrated forms of new development, including most higher density residential development in Growth Areas, such as the Coastal Area; that the Plan further states that a range of housing types should be permitted within the Coastal Area, including single-family homes, townhouses and multi-family units; that the Plan also states that medium and higher density development of four to 12 units per acre can be appropriate in certain locations, where central water and sewer are available, near existing commercial uses and employment centers, where the use is in character of the area and located along main roads, and based on all the facts provided within the submitted exhibits and stated within the presentation, the Conditional Use and Change of Zone Applications are in accordance with the Comprehensive Plan, and are in character with the nature of the area; that the Planning & Zoning Commission recommended approval of the Change of Zone and the Conditional Use subject to conditions A-M all which conditions are acceptable to the Applicant; that the Commission noted that the site is located along a major road; that the Applicant will be responsible for significant roadway improvements resulting in a safer intersection; that central water and sewer is available for the development; that the requested zoning and the proposed use and density is consistent with and authorized by the Comprehensive Plan and Coastal Area Designation; that these applications request an appropriate residential use that is in character with the area; that the applicant requests approval of the applications based on the record and recommendation of the Planning Commission subject to conditions A-M.

Public comments were heard.

Ms. Mary Lou Strong spoke in opposition of the application; that she came today for clarification; that this is the same parcel of land that was denied for the hotel; that nothing has changed; that it is still the same land and environment around it; that she understands that townhomes are more suitable; that she feels that Sussex County has gotten out of control; that she spoke about the signage regarding the public hearing on the property; that more needs to be thought about the environment and how things are

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(continued)**

moving forward in Sussex County.

Ms. Doris Pierce spoke in opposition of the application; that she is the secretary for the Southern Sussex County community action group; that they represent about 29 homeowners association in the corridor of Route 54; that there is a lot of congestion in the summer time; that during the hotel hearing in July of 2021, Mr. Bennett testified that this narrow piece of land is not good for development; that already 70 homes have been approved because they did not have to change the zoning; that this little peninsula is bordered by marshes and wetlands; that with an additional 23 townhomes, it would create a lot more water running out carrying with it fertilizers and landscaping components into the bay; that the bay is a big swimming pool for many people; that the water is polluted; that marine life is threatened; that all of the reasons that were given to deny the hotel should still stand.

Mr. John Drone spoke in opposition of the application; that he is a Councilmember of the Fenwick Landing Townhouse Condominium Association; that he is expressing his opinion as well as the voted opinion of the association; that things are different today than when their development was built in 1985; that they request the context for what is orderly growth and the appropriateness of the rezoning of the neighborhood; that these are two foundations that the Planning & Zoning used to justify their recommendation; that when their townhomes were built, the context was totally different; that there has been significant development along Route 54 since 1985; that he asked that the impact be considered; that the lack of sidewalk and parking is unsafe; that the fire hydrants and corners are parked in where emergency equipment could not be able to access; that vehicle traffic is threatening pedestrians walking back and back to the restaurants; that we need to stop saying yes and we do not need increased density of townhouses in this area.

The Public Hearing and public record were closed for CZ1984.

**M 552 23
Defer
Action/
CZ1984**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer on Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

The Public Hearing and public record were closed for CU2368.

**M 553 23
Defer
Action/
CU2368**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (23 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 554 23
Adjourn**

A Motion was made by Mr. Rieley seconded by Mr. Hudson to adjourn at 4:12 p.m.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

{An audio recording of this meeting is available on the County’s website.}